

PROPOSED CHARGING LETTER

U.S. Department of State  
Bureau of Political-Military Affairs  
Office of Defense Trade Controls  
Washington, D.C. 20520-0602

September 2, 1998

Theodore J. Collins  
Senior Vice President &  
General Counsel  
The Boeing Company  
P.O. Box 3707 MC 13-08  
Seattle, Washington 98124-2207

Re: Sea Launch Program

Dear Mr. Collins:

The Department of State charges that The Boeing Company violated the Arms Export Control Act and the International Traffic in Arms Regulations, as described below. Two hundred and seven violations (set forth in a separate document dated September 1, 1998) are charged at this time.

RELEVANT FACTS:

The Boeing Company (Boeing) is a corporation organized under the laws of the United States and the State of Washington.

Boeing is a U.S. person engaged in the business of manufacturing and exporting defense articles and is so registered with the Department of State pursuant to section 38 of the Arms Export Control Act and 22 C.F.R. 122.1, the International Traffic in Arms Regulations.

Boeing is subject to the jurisdiction of the United States, in particular with respect to the Arms Export Control Act and the International Traffic in Arms Regulations.

Kvaerner Maritime, a.s. (Norway); RSC-Energia (Russia); PO Yuzhmash and KB Yuzhnoye (Ukraine); Saab Ericsson Space AB (Sweden); Scheuerle Fahrzeugfabrik GmbH (Germany); and, TsNIIMash (Russia) all are foreign persons within the meaning of 22 C.F.R. 120.16.

During the period covered by the charges, Boeing has exported or caused the unlawful export of defense articles (specifically, technical data designated in the United States Munitions List, 22 C.F.R. 121) and defense services (specifically, the furnishing of assistance to foreign persons in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles).

#### THE CHARGES

##### Charges 1-22

1. Commencing on or about January 1994 and continuing until April 26, 1995, prior to the date on which Boeing received approval from the Department of State for Technical Assistance Agreement No. 473-94, Boeing repeatedly exported defense articles and defense services to Russia, Ukraine and Norway without the required approval from the Department of State.

##### Charges 23-43

2. Between April 27, 1995 and April 16, 1996, following approval by the Department of State of Technical Assistance Agreement No. 473-94, Boeing repeatedly violated the terms and conditions of that approval by the export of defense articles and defense services to Russia, Ukraine and Norway without obtaining approval of a technology transfer control plan and without obtaining the prior review and approval of the Defense Technology Security Administration.

##### Charges 44-151

3. Between April 17, 1996, and January 20, 1998, after receiving approval of a technology transfer control plan, Boeing continued repeatedly to violate the terms and conditions of the approval provided by the Department of State for Technical Assistance Agreement No. 473-94 by the export of defense articles and defense services without obtaining the prior review and approval of the Defense Technology Security Administration.

##### Charges 152-198

4. Prior to May 23, 1997, when the Department of State approved a license for Technical Assistance Agreement No. 103-97, Boeing repeatedly exported defense articles and defense services to Sweden without the required approval from the Department of State.

Charges 199-206

5. Between January 1996 and June 1997, Boeing repeatedly exported defense articles and defense services to Russia (TsNIIMash) without either obtaining the required approval from the Department of State or effecting a non-disclosure agreement necessary for foreign sub-licensing under Technical Assistance Agreement No. 473-94.

Charge 207

6. In June 1997, prior to the approval of Technical Assistance Agreement Nos. 1188-97 and 1227-97, Boeing exported a defense article to Germany (Scheuerle) without obtaining the required approval from the Department of State.

ADMINISTRATIVE PROCEDURES

In accordance with 22 C.F.R. 128, administrative proceedings are instituted against Boeing for the purpose of obtaining an Order imposing civil administrative sanctions that may include the imposition of debarment or civil penalties. The Assistant Secretary for Political-Military Affairs shall determine the appropriate period of debarment, which shall generally be for a period of three years in accordance with 22 C.F.R. 127.7. Civil penalties, not to exceed \$500,000 per violation, may be imposed in accordance with 22 C.F.R. 127.10.

A respondent has certain rights in such proceedings as described in Part 128, a copy of which I am enclosing. Furthermore, pursuant to 22 C.F.R. 128.11, cases may be settled through consent agreements, including prior to service of a charging letter.

Please be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the Arms Control Act and the International Traffic in Arms Regulations. The Department of State's decision to pursue one type of enforcement action does not preclude it or any other department or agency of the United States from pursuing another type of enforcement action.

Sincerely,

William J. Lowell  
Director

Enclosures:

Schedule of Charges  
22 C.F.R. 127